



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

MEH:ddj

Docket No: 4781-99

7 March 2000

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your deceased former spouse's naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your former spouse's naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum of 3 December 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY

**NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000**

3 Dec 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS (BCNR)

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: COMMENTS AND RECOMMENDATION ICO [REDACTED]
[REDACTED]

Ref: (a) BCNR memo of 16 Sep 99

1. Per reference (a), recommend the BCNR not correct HSAR Patrick's record to reflect that he voluntarily changed his election under the Survivor Benefit Plan (SBP) from spouse to former spouse coverage within one year of his divorce.

2. The recommendation is based on the following:

a. [REDACTED] transferred to the Temporary Disability Retired List (TDRL) on 1 March 1959. He enrolled in SBP spouse coverage on 1 February 1978. He died on 18 April 1994.

b. [REDACTED] were divorced on 18 January 1990.

c. Title 10, U.S. Code, Section 1448(f)(3), requires that SBP participants with spouse coverage who become divorced and desire to maintain their former spouses as their beneficiaries specifically elect such coverage within one year after the date of divorce.

d. Title 10, U.S. Code, Section 1450(f)(3), permits former spouses to have court-ordered SBP elections deemed on members' behalf if members do not voluntarily change their elections during the one-year timeframe. To do so, a former spouse must submit a written request to the Defense Finance and Accounting Service, Cleveland (DFAS-CL) within one year of the date of the court order.

M. P. Wardlaw

M. P. WARDLAW
Head, Navy Retired Activities
Branch (PERS-622)